

DETAILED ACTION

Response to Amendment

Examiner acknowledges applicant's amendment of claims 1-8 and 10 and cancellation of claim 9 in the Response dated 4/20/2011 directed to the Non-final Office Action dated 2/4/2011. Claims 1-8 and 10 are pending in the application and subject to examination as part of this office action.

Examiner acknowledges that applicant's arguments in the Response dated 4/20/2011 directed to the rejection set forth under 35 U.S.C. 103(a) in the Non-final Office Action dated 2/4/2011 are deemed moot in light of a new ground of rejection under 35 U.S.C. 103(a) as set forth below in view of applicant's amendments and in view of applicant's arguments.

Examiner acknowledges applicant's silence regarding with respect to claims 1-8 as not being interpreted to be in means plus function form, which is taken as an indication that applicants agree with Examiners contention that the claims are not in means plus function form and obviates the objections under 35 U.S.C. 112, sixth paragraph described in the Non-final Office Action dated 2/4/2011. Therefore, Examiner withdraws further objection under 35 U.S.C. 112, sixth paragraph.

Examiner acknowledges applicant's arguments and amendments of claims 1-8 and 10 to resolve indefiniteness of the claims, which does not obviate the rejections

under 35 U.S.C. 112, second paragraph described in the Non-final Office Action dated 2/4/2011. Therefore, Examiner maintains the rejection under 35 U.S.C. 112, second paragraph with clarification as described below.

Examiner acknowledges applicant's amendments of claims 1-8 to resolve the non-statutory subject matter of the claims, which obviate the rejections under 35 U.S.C. 101 described in the Non-final Office Action dated 2/4/2011. Therefore, Examiner withdraws further rejection under 35 U.S.C. 101.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "setting extend of deviance of a destination, and controlling the movement object which moves from the point to the destination after been deviated" in about lines 16-18 on page 2 of the amended claims filed on 9/24/2009 and 4/20/2011. However, Examiner finds that the recitation is unclear at least in that the recitation appears to recite either that the deviance occurs after the moving object reaches the destination due to a trajectory of the moving object, or that the deviance occurs along the trajectory to an arrival position other than the destination in which the

distance between the arrival position and the destination is the deviance. In contrast, the specification of this application in paragraphs 0015, 0054, 0060, 0068 and 0070 teaches that the ball/moving object deviates on a path toward the destination or prior to reaching the destination such that at the destination there exists a displacement or deviance of the ball dependent upon the pitcher character ball control (i.e. throwing ability and timing of throw) and ball trajectory. Thus, Examiner believes and interprets that the timing when the pitcher character is initiated by the user to throw the ball and the skill level of pitcher character being utilized by the user determines the extent of deviance of displacement of the ball when the ball or moving object approaches the destination.

Claim Rejections - 35 USC § 103

Examiner sets forth new grounds of rejection under 35 U.S.C. § 103(a) with respect to amended features as described below because each of the features of applicant's claimed invention as amended continues to be unpatentable or obvious over the prior art.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Examiner submits that a first request receiving function "for receiving," an operation display function "for displaying," a moving object control function "for setting," and a dispatch storing function "for storing" among others are functions, which are

possibly code, merely "capable of" executing a process as recited by claims 1-3, 5 and 7, which is intended use language and is given very limited patentable weight when evaluating the claims because the terms "for receiving," "for displaying," "for setting," "for storing," and "capable of" suggest or make optional the steps recited, do not limit a claim to a particular structure and do not limit the scope of the claim (See MPEP 2106 II, C. Review the Claims). Therefore, Examiner submits that applicants' claims are interpreted as broadly as reasonably allowed in light of the specification in accordance with *In re Zletz* (See *In re Zletz*, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)).

The claims are replete with intended use language, and Examiner suggests that applicants review all claims and replace such language with an affirmative recitation of how the structural features execute the functional limitations of the claimed invention.

Claims 1, 3-4, and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Namba et al. (US Patent 6,494,783; hereinafter Namba) in view of Hoshino (JP Patent Application Publication 2001-129249), and further in view of Rimoto et al. (US Patent 6,503,144; hereinafter Rimoto). Features are described by figures with reference characters where necessary for clarity.

Regarding claim 1, Namba teaches

a non-transitory computer readable medium storing a video game program for causing a computer to implement a video game that can be executed by means of a controller, in which a character and a moving object are displayed on a monitor, and the moving object is dispatched by the character, the video game program (column 4, lines

30-63, column 6, lines 15-41, and Fig. 1, 18, 24, 34, 36, Namba; a memory unit, which is a non-transitory computer readable medium that stores a video game program is configured to execute code using controllers so as to cause a pitcher character or character to pitch or dispatch a virtual ball character or moving object in a virtual baseball game in which the character, ball and pitching motion are displayed on a display or monitor in response to certain player selections and game actions) comprises:

a first request receiving function for receiving an operation initiation request from the controller in order to cause the character to initiate a dispatch operation until the moving object is dispatched (column 8, lines 17-26, Namba; the stored code or first request receiving function receives a pitch type or operation initiation request from a controller that receives the selection input from a mouse which remains in effect until the ball is pitched after causing and so as to cause the pitcher character to start the pitching process);

an operation display function for continuously displaying the dispatch operation of the character on the monitor when the first request receiving function has received the operation initiation request (column 8, lines 41-55, Namba; the stored code or operation display function causes, using the controller, sets the course of the pitch ball or dispatch operation as a result of the pitch position being set so as to display the pitch course on the display when the pitch type is received from the controller, and it would have been obvious at the time of invention to one having ordinary skill in the art to realize that the displaying of the ball pitch of Namba is continuously displayed when the pitch type is received from the controller since Rimoto discloses continuous display of a pitched ball when a throwing direction is set as described below);

a second request receiving function for receiving a request to dispatch the moving object from the controller when the dispatch operation of the character is continuously displayed on the monitor by the operation display function (column 8, line 56 to column 9, line 7, Namba; the stored code or second request receiving function receives using the controller an indication or request when the player stops movement of the indicator SI such that the prescribed speed of the ball is set to cause the indicator

SI begins to move on the displayed speed gauge SG at the same time in which the indicator CI of the displayed control gauge CG moves at high speed to cause the pitch process to occur at the pitch position set and be displayed as part of the displayed control gauge CG, and it would have been obvious at the time of invention to one having ordinary skill in the art to realize that the displaying of the ball pitch of Namba is continuously displayed when the pitch type is received from the controller since Rimoto discloses continuous display of a pitched ball when a throwing direction is set as described below);

a moving object control function for setting point of dispatching the moving object from the character controlling the movement of the moving object according to a timing at which the second request receiving function received the dispatch request (column 8, lines 27-41, column 9, lines 27-48, Namba; the stored code or moving object control function sets, using the controller, a prescribed position or pitch position or ball target point according to the time of setting the pitch type and pitch position set so as to be used to define the point of pitching of the ball character from the pitcher to the strike zone SZ of a batter character above home plate HB); and

a moving object display function for displaying the moving object controlled by the moving object control function on the monitor (column 9, lines 8-26 and Fig. 14, Namba; the stored code or moving object display function displays, using the controller, the pitching of the ball by the pitcher toward the batter character on the display as in combination with the control gauge CG movement if pitch type, pitch position and pitch position set are positively determined to be properly set).

However, Namba does not appear to teach setting the deviance of the ball character as claimed. Therefore, attention is directed to Hoshino, which teaches

setting extend of deviance of a destination, and controlling the moving object which moves from the point to the destination on the basis of the deviance (paragraphs 0021 and 0029 and Dwg. 4-5, 57, Hoshino; the extent of deviance of the ball or ball character based on a degree of success in which the pitched ball has settled in a

predetermined width or deviance from a predetermined range of the strike zone is set by the pitcher's ball control meter display and display as part of success range display, which is measured after deviation from the strike zone occurs after the ball leaves the pitcher to approach the strike zone, and it would have been obvious at the time of invention to one having ordinary skill in the art to realize that the degree of success in which the pitched ball has settled in a predetermined width as disclosed by Hoshino provides control of the pitched ball from the point to the destination based on deviance since Rimoto discloses moving a pitched or hit ball from a point to a catching destination based on a group of motions and predicted position as described below).

Hoshino suggests that a non-transitory computer readable medium used with a device that controls the ease with which a player pushes a button to throw a ball character and stop a pitcher's ball control based on limits of a success range display will maintain a player's interest over the baseball game due to increasing the player's concentration when controlling the pitcher's ball becomes more difficult for poor pitch types versus becoming easier for pitch type favorites of the pitcher character (paragraph 0028, Hoshino).

Thus, it would have been obvious to a person having ordinary skill in the art at the time the applicant's invention was made to modify Namba in view of the teachings of Hoshino for the purpose of providing the memory unit of Namba having settings of prescribed or pitch position, pitch type and pitch position based on player movement of an indicator to control pitch speed and travel path upon leaving the pitcher's throwing position to arriving at the strike zone that are upgradeable to and/or integrable with the setting of the predetermined width or deviance from a predetermined range of the strike zone as measured and displayed by success range display that shows the degree of

success in which the pitched ball has settled in the predetermined width or deviance from the predetermined range as disclosed by Hoshino in order to maintain a player's interest over the baseball game due to increasing the player's concentration when controlling the pitcher's ball becomes more difficult for poor pitch types versus becoming easier for pitch type favorites of the pitcher character by controlling the ease with which a player pushes a button to throw a ball character and stop a pitcher's ball control based on limits of a success range display.

Moreover, Namba alone or in combination with Hoshino does not appear to explicitly teach continuous display of a ball pitch operation, control of a pitched ball from a point of dispatch to a destination based on deviance at the destination, and setting and control of the deviance of the moving object at the destination based on the point of dispatch of the moving object when the character dispatch operation is continuously displayed as claimed. Therefore, attention is directed to Rimoto, which teaches

an operation display function for continuously displaying the dispatch operation of the character on the monitor (column 12, lines 8-32 and column 12, line 42 to column 13, line 16 and Figs. 6, 8-9, Rimoto; continuous display of a pitched ball by a pitcher character to a baseman is provided as a group of motions when a throwing direction is set);

controlling the moving object which moves from the point to the destination on the basis of the deviance (column 14, line 36 to column 16, line 23 and Figs. 13, 16-18, Rimoto; it is determined whether a user or player has designated a throw destination during the continuous display of the pitched ball, and if so, the ball is controlled as the ball moves along a path or trajectory from release from the pitcher or exit from a batters bat toward the designated throw destination such that a distance from the throw

destination is determined so as to determine deviance of the ball from the throw destination to enable catching via a group of motions and allow the user to determine optimal throw destinations); and

the moving object control function setting and controlling the deviation of the movement object at the destination on the basis of the point of dispatching the moving object when the dispatch operation of the character is continuously displayed on the monitor by the operation display function (column 14, line 36 to column 16, line 23 and Figs. 13, 16-18, Rimoto; although it is Examiners contention and Examiner interprets that the features recited here do not further limit the features described above for the moving object control function, Examiner nonetheless submits that when it is determined whether a user or player has designated or set a throw destination during the continuous display of the pitcher pitching the pitched ball, the ball is controlled as the ball moves along a path or trajectory from release from the pitcher or exit from a batters bat toward the designated throw destination such that a distance from the throw destination is determined so as to determine deviance of the ball from the throw destination to enable catching via a group of motions and allow the user to determine optimal throw destinations).

Rimoto suggests that a device storing instructions on a memory device that enables reproduction of realistic and smooth motion of a player character pitching a ball character in a virtual baseball game toward a designated destination based on instruction by a player or user will solve existing problems in which mere smoothing of a fielders action at the destination upon collision between the fielder and the collision area where the ball is to reach causes more discontinuous action than continuous action and gives the user an awkward feeling when the user performs a pitching or throwing operation (column 1, lines 21-25, lines 34-43 and column 1, line 58 to column 2, line 11, Rimoto).

Thus, it would have been obvious to a person having ordinary skill in the art at the time the applicant's invention was made to modify Namba in view of the teachings of Hoshino, and further in view of the teachings of Rimoto for the purpose of upgrading and/or integrating the settings of prescribed or pitch position, pitch type and pitch position based on player movement of an indicator to control pitch speed and travel path upon leaving the pitcher's throwing position to arriving at the strike zone to utilize the setting of a predetermined width or deviance from a predetermined range of the strike zone as measured and displayed by success range display that shows the degree of success in which the pitched ball has settled in the predetermined width or deviance from the predetermined range as disclosed by Namba alone or in combination with Hoshino with the continuous display of the pitcher ball pitching or throwing motion to a fielder and control of the pitched ball along a trajectory toward the throw destination to determine deviance or displacement of the ball from the throw destination when the user or player designates the throw destination during continuous display of the pitched ball as disclosed by Rimoto in order to solve existing problems in which mere smoothing of a fielders action at the destination upon collision between the fielder and the collision area where the ball is to reach causes more discontinuous action than continuous action and gives the user an awkward feeling when the user performs a pitching or throwing operation by enabling reproduction of realistic and smooth motion of a player character pitching a ball character in a virtual baseball game toward a designated destination based on instruction by a player or user.

Regarding claim 10, the scope of the claim for the method of operating the system is inherent with respect to claim 1 above in view of the structure disclosed by Namba and Hoshino since the method is the normal and logical manner by which the system is employed.

Regarding claim 3, a dispatch storing function for storing dispatch information for the character is disclosed, wherein the moving object control function references the dispatch information stored in the dispatch storing function and controls the movement of the moving object (paragraphs 0028 and 0035, Hoshino; the code or dispatch storing function uses the CPU to store characteristic data of the pitcher character as pitch type or dispatch information on the non-transitory computer readable medium to control movement of the ball character when pitched by the pitcher character).

Regarding claim 4, the moving object control function establishes the extent of the displacement of the moving object at the destination of the moving object and controls the movement of the moving object, in accordance with the dispatch position of the moving object at the character at the time at which the second request receiving function has received the dispatch request (paragraphs 0021 and 0028, Hoshino; the predetermined width is the extent of displacement of the ball from the strike zone or destination within the predetermined range that controls the movement of the ball based on the pitch type of the pitcher character that relates to the position the ball leaves the pitcher to move toward the strike zone, and it would have been obvious at the time of invention to one having ordinary skill in the art to realize that ball is pitched at the time when the strike zone position is determined since Namba teaches that the stored code sets, using the controller, a prescribed position or pitch position or ball target point according to the time of setting the pitch type and pitch position set so as to be used to define the point of pitching of the ball character from the pitcher to the strike zone SZ of

a batter character above home plate HB).

Regarding claim 7, a second timing display function for displaying, with text or an image, favorable or unfavorable results of the timing at which the moving object was dispatched is disclosed (column 9, lines 27-48, Namba; the code or second timing display function, using the controller, determines and displays a meet cursor position data and position data coinciding when the ball character reaches the bat of the batter character to indicate affirmative or favorable results, and also determines and displays the meet cursor position data and position data as not coinciding when the ball character passes over home plate).

Regarding claim 8, the speed of the moving object is determined by operating the controller from when the first request receiving function receives the operation initiation request until the second request receiving function receives the dispatch request (column 8, lines 27-40, Namba; the code controls the controller to cause a speed gauge SG to display the speed of the ball character from selection of the pitch type to setting of the prescribed speed).

Claims 2 and 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Namba in view of Hoshino, further in view of Rimoto, and even further in view of Sterchi et al. (US Patent Application Publication 2005/0153764; hereinafter Sterchi). Features are described by figures with reference characters where necessary for clarity.

Namba alone or in combination with Hoshino and Rimoto teaches features of the claimed invention as described above.

However, Namba alone or in combination with Hoshino and Rimoto does not appear to teach receiving a destination and trajectory request as claimed. Therefore, attention is directed to Sterchi, which teaches

Regarding claim 2, a third request receiving function for receiving a destination indicating request and a trajectory properties specifying request from the controller in order to indicate the destination and to specify the trajectory properties of the moving object up to the destination, before the first request receiving function receives the operation initiation request is disclosed; wherein the moving object control function controls the movement of the moving object according to the destination indicating request and trajectory properties specifying request received by the third request receiving function (paragraphs 0050-0051, Sterchi; the code receives a player's selection of an intended location for the pitch or destination indicating request and pitch type or trajectory properties specifying request from a controller of the videogame console to indicate the intended pitch location in or out of the strike zone of the batter and whether the pitch path or trajectory will result from a fastball, curveball, change-up or screwball, etc. type of pitch prior to initiation of the pitch type to move the ball character from the pitcher toward the strike zone and subsequent movement of the ball character in the specified configuration).

Sterchi suggests that non-transitory computer readable medium used with a videogame console that allows the videogame player to select a specific pitch type and other control parameters during game play will improve game play of video baseball, basketball, football, soccer, hockey games through creation of greater realistic and exciting experiences for the player (paragraphs 0002-0005, Stechi).

Thus, it would have been obvious to a person having ordinary skill in the art at the time the applicant's invention was made to modify Namba in view of the teachings of

Hoshino, further in view of the teachings of Rimoto, and even further in view of the teachings of Sterchi for the purpose of upgrading and/or integrating the settings of prescribed or pitch position, pitch type and pitch position based on player movement of an indicator to control pitch speed and travel path upon leaving the pitcher's throwing position to arriving at the strike zone to utilize the setting of a predetermined width or deviance from a predetermined range of the strike zone as measured and displayed by success range display that shows the degree of success in which the pitched ball has settled in the predetermined width or deviance from the predetermined range, and the continuous display of the pitcher ball pitching or throwing motion to a fielder and control of the pitched ball along a trajectory toward the throw destination to determine deviance or displacement of the ball from the throw destination when the user or player designates the throw destination during continuous display of the pitched ball as disclosed by Namba alone or in combination with Hoshino and Rimoto with the selection of pitch type and an intended location for the pitch as disclosed by Sterchi in order to improve game play of video baseball, basketball, football, soccer, hockey games through creation of greater realistic and exciting experiences for the player by allowing the videogame player to select a specific pitch type and other control parameters during game play.

Regarding claim 5, a first timing display function for displaying a timing indicator that shows the timing at which the moving object is to be dispatched, after the first request receiving function has received the operation initiation request is disclosed (paragraphs 0052-0053 and Figs. 5-8, 350, Sterchi; the code displays a release meter or timing indicator, using a controller, that reveals to the player visually the timing from

pitch wind up, pitch and release of the ball character after the indication to pitch has been initiated to begin).

Regarding claim 6, the timing indicator is displayed in conjunction with the dispatch operation of the character (paragraphs 0052-0053 and Figs. 5-8, 370, Sterchi; the release meter is displayed with the pitching of the ball by the pitcher character).

Response to Arguments

Applicant's arguments filed in the Response dated 4/20/2011 directed to the Examiners' rejection under 35 U.S.C. § 103(a) have been considered fully and are moot in light of a new ground of rejection under 35 U.S.C. 103(a) as set forth above in view of applicant's amendments and in view of applicant's arguments thereof.

Examiner has provided the above new grounds of rejection of the claims under 35 U.S.C. 103(a) because each of the features of applicant's claimed invention continues to be unpatentable or obvious over the prior art.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

B US-5,769,713, Katayama

C US-5,118,105, Brim et al.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ARTHUR O. HALL whose telephone number is (571)270-1814. The examiner can normally be reached on Mon - Fri, 8:00am - 5:00 pm, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ARTHUR O. HALL/
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